

Attorney Docket No.: FRSN001US0

PATENTS  
Customer No. 37,141REMARKS:

The Examiner's allowance of claims 1-13 and 30-49 is gratefully acknowledged.

Reconsideration of the Examiner's rejection of claims 14, 18, 25-29, 50, 51, and 57-61 under 35 U.S.C. §103(a) as being obvious over JP-10142351A (Morimoto) is respectfully requested.

All of the claims rejected by the Examiner recite an infrared imaging device having first and second Fresnel lens elements, wherein each of the first and second lens elements has positive power. The Examiner acknowledges that Morimoto does not explicitly teach this element of the claimed invention, but argues, in essence, that this element is inherent in the device of Morimoto, "since they are being focused onto the detector and could only be positive". In support of this contention, the Examiner points to the devices depicted in FIGs. 1 and 6 of the reference and to the abstract of Morimoto. In particular, the Examiner points to the portion of the abstract which states that

A multiple Fresnel lens 2 consists of a double Fresnel lenses, and an outer Fresnel lens focuses infrared rays on each lens surface of the inner Fresnel lens. Further, the inner Fresnel lens focuses infrared rays to a charging type infrared sensor 3." [emphasis added by Examiner].

However, the Examiner is respectfully reminded of the extremely high showing required to establish inherency as set forth in M.P.E.P. § 2112(IV):

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. ... "To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." [emphasis added]

In the present case, contrary to the Examiner's suggestion, it is not necessary for the two lenses in the device of Morimoto to have positive power in order to focus light onto a detector. This fact is illustrated by commonly assigned U.S. 5,886,821 (Sohn), which has been cited in the present application and which discloses a double lens system similar to the type described in Morimoto. Notably, the second lens in the system of Sohn has negative power, even though, as

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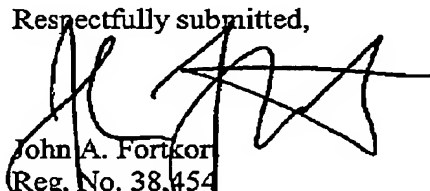
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in the device of Morimoto, the device of Sohn is being used to focus light from a source onto a detector. The Examiner will thus appreciate that the mere disclosure in a reference of a two lens system which focuses light from a source onto a detector does not imply that the lenses in the system must have positive power.

A Request for a one-month Extension of Time is submitted with this Response (April 29, 2006 having fallen on a Saturday). It is believed that no further fees are due with this response, however, if further fees are deemed due, or a credit for any overpayment, the Commissioner is hereby authorized to charge any further fees due with this response or to credit any overpayment to the deposit account of Fortkort & Houston P.C., Deposit Account No. 50-3694.

Dated: May 1, 2006

Respectfully submitted,

  
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